

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Case No. 19-CV-3061-SRN-LIB

Nate Erickson, et al.,

Plaintiffs,

v.

**SEALED MEMORANDUM IN
SUPPORT OF MOTION FOR
APPROVAL OF SETTLEMENT
DISTRIBUTIONS AND MOTION
FOR APPROVAL OF MINOR
SETTLEMENT**

Todd County, et al.,

Defendants.

INTRODUCTION

The Trustees move the Court for approval of the proposed distribution of the gross settlement, and the terms of the minor settlement.

The Trustees propose an equal division of settlement proceeds between all 3 of Todd Erickson's children. Such a distribution is fair and just in light of the unique ways Erickson will be missed by each of his kids.

[REDACTED]

[REDACTED]. The Trustees respectfully request approval.

STATEMENT OF FACTS

A. Parties

Todd Erickson died on May 7, 2017 while in custody of the Todd County Jail.¹

Nate Erickson, Amanda Horn, and Susan Bristlin are Joint Trustees for the next of kin of Todd Erickson.² Nate is Todd's son – he is 32 years old. Horn is Erickson's daughter – she is 30 years old. Bristlin is Erickson's former wife, and the guardian of their adopted son, minor A [REDACTED] B [REDACTED].³ A [REDACTED] is [REDACTED].⁴

¹ See Doc. No. 32; *see also* Doc. No. 87. *See generally* Ex. H at 85-7.

² See Ex. A.

³ See Ex. B.

⁴ A [REDACTED] birthday is [REDACTED] See Ex. U.

Nate Erickson, Amanda Horn, and A ■ B ■ are Todd Erickson's only children and next of kin. He was not married at the time of his death.⁵

B. Factual Background

The Court is familiar with the facts of this tragic case.⁶

Erickson suffered from alcohol dependency. A Pope County Sheriff's Deputy arrested Erickson on May 6, 2017 for driving under the influence of alcohol. He was transported to Todd County Jail, which has a contract with CentraCare for provision of medical services to inmates. On May 7, Erickson died in his cell of alcohol withdrawals.

C. Procedural Background

The Trustees brought this action against Pope County, Todd County, and individual correctional officers, alleging deliberate indifference to Erickson's medical needs, unconstitutional policies and procedures (including failure to train), and wrongful death. The Trustees subsequently added CentraCare and individual medical providers to the action, alleging deliberate indifference to

⁵ See Ex. S; Ex. T.

⁶ See Doc. No. 116.

Erickson's medical needs, unconstitutional policies and procedures (including failure to train), medical malpractice, and wrongful death.

On cross motions for summary judgment, the Court dismissed Pope County and Pope County Sheriff's Deputy Grace McCallum from the suit. Otherwise, the Court generally denied both sides' motions and set this matter for trial.⁷

D. Settlement

The parties participated in a settlement conference with Judge Brisbois on August 8.⁸

After an all-day conference, the parties reached a settlement.⁹ In general terms, the settlement calls for:

- a payment of \$1.8 million from Todd County to the Trustees;
- a [REDACTED] CentraCare [REDACTED];
- confidentiality of [REDACTED] CentraCare's [REDACTED]
- dismissal of the individual correctional officers and medical providers from the suit; and

⁷ See Doc. No. 116.

⁸ See Doc. No. 124.

⁹ See Ex. C; Ex. D.

- a release of all claims by the Trustees.

E. Distribution Sought

The parties seek the following distribution of funds:

- \$ [REDACTED] to Nate Erickson;
- [REDACTED] to Amanda Horn;
- \$ [REDACTED] to A [REDACTED] B [REDACTED] through a structured settlement as described below;¹⁰ and
- \$ [REDACTED] to counsel for legal fees and costs.

ANALYSIS

1. Minnesota law and the federal rules provide the Court authority to decide the appropriateness of distributions and the minor settlement.

Minnesota Statute § 573.02 and Minnesota General Rule of Practice 144 govern the procedure for bringing wrongful death actions. Rule 144.05 provides that the court “shall approve, modify, or disapprove the proposed distribution and shall specify the persons to whom the proceeds are to be paid.”

¹⁰ See generally Ex. D at Ex. A; Ex. K.

Minnesota General Rule of Practice 145 governs actions on behalf of minors. It provides that “[n]o part of the proceeds of any action or claim for personal injuries on behalf of any minor . . . shall be paid to any person except under written petition to the court.”¹¹

Local Rule 17.1 provides that federal courts “follow[] the State of Minnesota’s procedure for approving settlements and allowing attorney’s fees and expenses.”

2. An equal distribution to each of Erickson’s children is reasonable, fair, and just.

The Joint Trustees unanimously agree that settlement funds should be equally distributed between Erickson’s 3 children.¹² Such a distribution is fair, just, and reasonable.¹³

The Trustees did not seek damages for Erickson’s lost wages, medical costs, or funeral expenses.¹⁴ Their claims for monetary damages focused on Erickson’s

¹¹ Minn. R. Gen. R. Prac. 145.01.

¹² See Ex. S; Ex. T; Ex. U.

¹³ See *generally* Ex. I.

¹⁴ See Ex. E at Ans. to Int. No. 10.

hedonic damages, Erickson's pain and suffering, and the loss of advice, comfort, assistance, companionship, and protection that they enjoyed from Erickson.¹⁵

A. Nate Erickson

Nate Erickson, until recently, worked full time at the Salvation Army. He served as the Getting Ahead Program Manager, where he worked with people trying to find solutions to poverty. He taught classes on poverty and helped people learn from their past to get out of poverty, including making spiritual and social connections; he now works for the University of Minnesota Extension Office in Kandiyohi County, working as one of their 4-H Extension Educators. Nate is also the co-founder of a non-profit called MN-You Youth Garden in Willmar: he helps get fresh vegetables into the kitchens of the less fortunate. He also works radio part-time. He graduated from St. John's University in 2012 with a degree in communications. He worked full-time for his dad for 5 years as a butcher at the Meat Center and part-time for the rest of Todd's ownership.

Nate misses the comradery of his father and his sneaky jokes. Nate misses his dad saying something kind of serious but kind of crazy, watching the grin

¹⁵ See *generally* Ex. E at 5-9.

spread over his face and him bust out laughing.¹⁶ Todd was a big Gopher wrestling and football fan. Nate misses watching wrestling with his dad on TV and going to the Barn to watch them live when the Hawkeyes were in town.¹⁷

Nate learned from his father's work ethic and the way he treated others. He recalls that Todd had a coffee station inside the butchery. Every morning, for a minimum of an hour, 4 older gentlemen in their 60s and 70s came in to talk and drink coffee. Todd always made time to go sit down and talk to them. He took time to make them feel like part of the family, even though they rarely bought anything. Nate says these are the favorite moments of his life.

Todd always supported Nate financially, even when Todd couldn't afford it. Nate recalls a time in college where he couldn't pay a tuition bill and was in jeopardy of not being able to attend class. His father immediately went to the bank

¹⁶ See Ex. F at 11 ("My sister, my dad, and I, we considered ourselves the Three Musketeers. We were just like as tight as it could be").

¹⁷ See Ex. F at 22-3 ("[I]t was just like he was always the fun dad, because he was also one of the guys, and this was true throughout his entire life . . . he just would go to the store, pick up little knickknacks or little toys that he thought we would think are funny or have fun with, and he would just bring it home . . . we were best friends").

and took a \$5,000 loan, which he gave to Nate.¹⁸ But Todd told him that Nate had to come in to the Meat Center and put in the hours to work off the money.¹⁹ “I don’t want you to be done with school.” Todd gave Nate and his fiancée (now wife, Sarah) \$2,000 that they needed to have a wedding.²⁰ He said: “I wish I could give you more, this is all I have.” Whenever Todd could, he’d slip Nate \$50 or \$100. Nate says that Todd was never good with money, because he lived in the moment and just wanted a fun day with his kids, or a fun day with Bristlin.

Nate lost one of his closest friends when his father passed.²¹ Perhaps the biggest loss for Nate is that Todd loved kids and loved the idea of being a

¹⁸ See Ex. F at 9-10 (“I don’t know why he ever did it. He was just worried about us and wanted to contribute in any way that he could to our lives”).

¹⁹ See Ex. F at 25-6 (“He would always scall me at like 4:00, 4:30 in the morning as my wake-up call and he would invite me on a run to Walmart . . . And the thing that really that I think about and miss all the time is that we’d be just jamming to Ozzy Osbourne and Godsmack like as loud as the Appleton Meat Center speakers allow us to have it”).

²⁰ See Ex. F at 37.

²¹ See Ex. F at 24 (“Truthfully our relationship strengthened as I got older, and it was mostly because we could share wisdom with each other and he could see the man that I was growing into, and I think that he really – he would always tell me every time we would talk on the phone . . . I always just look back and wish I could have another one of those phone calls with him . . . he would always close the phone call with a hey, I love you. I love you so much. I’m so proud of you. And he would say it over and over”), 37 (“He’s my best friend. We talked every

grandfather. His constant advice to Sarah was to have a baby. Todd never got to meet Nate's son, N [REDACTED] (named after Todd's firstborn son, who died of heart problems after 17 days of life), who is now 3 ½ years old.²²

B. Amanda Horn

Horn graduated in 2010 from Melrose High School. She went to St. Cloud State University and started working part-time at Victoria's Secret. She's now the store manager in St. Cloud. She married her college sweetheart, Clayton – they have 2 boys: C [REDACTED] (7) and C [REDACTED] (4).

Erickson's nickname for his daughter, since the time she was a baby, was "Muffin." She loved hearing him call her that. Horn misses the deep and long conversations she'd have with her dad: "He gave me advice and guidance every day." Amanda says her father taught her the importance of hard work, and about doing the right thing, even when nobody is watching. He was very loving and emotional with her: he'd call her as frequently as 10 times a day. Their inside joke

day"), 40 ("I would talk to him on the phone multiple times a day"), 48 ("He called every single morning to check in to see how I was doing").

²² See Ex. F at 48 ("I just feel like I'm missing out on – a piece of me is missing. I have my dad's full urn sitting on my son's dresser watching over him every night").

was for them all to move to Ecuador and butcher goats. He wanted Horn to be there to start her own nightwear company. She describes her father as a “dreamer,” “who never let that go.”²³

Erickson frequently helped Horn with money.²⁴ About every other weekend, he paid her to help out around the Meat Center, wrapping meat or running the store front. He’d fill her gas tank and give her \$50 to get through the week and pay for her time at work. Horn says his help was never expected, but always welcome. Whenever she needed anything, Erickson always said yes, and just told her to come work for a couple hours.

In the last couple years of his life, Erickson constantly told Horn to move closer to him so that he could be closer to C [REDACTED], his first grandson. He loved being a grandpa and was always curious about his first (and only) grandson.²⁵ Horn found out she was pregnant with C [REDACTED] 3 or 4 days after her father passed.²⁶

²³ Ex. E at 8-9.

²⁴ See Ex. G at 15-16, 58-9.

²⁵ See Ex. G at 20.

²⁶ See Ex. G at 45 (“I think about him every day. It was really hard for me finding out I was pregnant right after. He was a super proud grandpa, so I was really

Horn misses the advice, guidance, and companionship of her father.²⁷ “A lot of our time spent together would be hanging out by the bonfire in their lawn, having late-night chats. I always think it’s really special.”²⁸

So we’d sit and have really deep talks. And there’s been times in my life where I’ve been, you know, curious about religion and believing in God, and he would always make that really important, and he would like talk about how passionate he is about God and things like that. So it would be like really deep convos around the fire.²⁹

depressed for a while that he wouldn’t get to meet his second grandson . . . My six-year-old, whenever we get in the car, he always asks if we can turn it up really loud and listen to Crazy Train illustrated by Ozzy Osbourne. So it’s just really fun to like keep his memory alive with my kids who don’t have the opportunity to grow up with him”).

²⁷ See Ex. G at 20-1.

²⁸ Ex. G at 39.

²⁹ Ex. G at 40.

Horn misses the time she spent working with her father at the Meat Center.³⁰ She misses his advice for major life decisions.³¹ And the lifelong protection a father provides his daughter.³²

So I'll preface this by saying that not only on every single birthday, but any time he would tell me how proud of me he was he would always share the story of my birth, how proud he was that he finally got a girl . . . There was one I remember. I was having some postpartum depression, and I just felt comfortable just kind of writing everything out on a page and saying how I was struggling as a new mom, struggling to keep the house clean or get anything done or lose weight, and I wish I would find the letter that he sent back to me, because he just loved me so much. He would tell me like "You look perfect, you don't have anything to change. It's okay to be depressed, it's okay to feel bad," but don't let that, you know, like affect your relationship or things like that. He was just really supportive of me any time I needed it.³³

³⁰ See Ex. G at 40-1 ("But we were just talking, and he was listening to rock and roll and I was packing up a box, and I taped it like so much and he's like what are you doing, shipping that to China? . . . And so now I find myself at work with my girls at the store. I'm like 'What are you doing, shipping that box to China?'").

³¹ See Ex. G at 41 ("He was always the first person I called").

³² See Ex. G at 60-1; *see also* Ex. H at 44-5.

³³ Ex. G at 61.

C. A ■ B ■

A ■ is Erickson's adopted son from his relationship with Susan Bristlin. Erickson and Bristlin leveraged support from the community and peers at church to make the financial commitment to adopting A ■ from Oklahoma. They were present at his birth.³⁴ Erickson was proud to have been able to "cut the cord," and to be a new parent again, after 21 years.³⁵

Erickson adored A ■ and affectionately referred to him as his "little burnt Norwegian." He loved when A ■ visited him at the Meat Center and joked that he would be the 4th generation of Erickson to become a butcher.³⁶ Erickson was very proud of A ■ and took him everywhere that he could.

And they would mow the lawn together, and any time Todd was out changing the oil in the lawn mower or maybe playing with our dog Wally, A ■ was always there. We did a lot of camping together as a family . . . They loved taking baths together. Todd, although he was this big, burly fellow, he loved to take a bubble bath, and he loved to have little A ■ in there with him.³⁷

³⁴ See Ex. H at 57.

³⁵ See Ex. E at 9.

³⁶ See Ex. H at 57 ("And people would come in and see A ■ bouncing in his little jumper . . . and this big, burly butcher feeding a little – a tiny little baby and it was – he was a proud papa").

³⁷ Ex. H at 58.

Over the last 2 years of Erickson's life, he fell off the wagon and struggled again with his alcoholism. During that time, he and Bristlin divorced and his time with A■■ was limited.³⁸ Nonetheless, Erickson made sure to financially contribute what he could.³⁹ Erickson loved A■■ from the bottom of his heart, and there was never a question as to whether A■■ was his son.⁴⁰

A■■ will miss the guidance, companionship, and protection of his father.⁴¹

3. The structured settlement for A■■ is thoughtful, reasoned, and consistent with the language and goals of Rule 145.

A. Distribution amount

Of the total settlement funds of \$■■■■■■■■■■, A■■ equal share is \$■■■■■■■■■■. Though the retainer calls for a 35% contingency fee (which Nate Erickson and Horn will pay), A■■ will pay a 33.33% fee of \$■■■■■■■■■■ – consistent

³⁸ See Ex. H at 15, 17-18, 20-1, 27, 46, 54-5, 60-2.

³⁹ See Ex. H at 36-8, 80.

⁴⁰ See Ex. H at 62 ("He wanted to see A■■ as much as possible"). See also Ex. H at 59 (Q. "Now that A■■ is eight, almost nine, what does he say about Todd?" A. "He just says that his dad has died and that he's in heaven now with grandpa").

⁴¹ See e.g., Ex. H at 71 ("[O]ur son is of mixed race . . . and how will he deal with bullies. And Todd would know how to do that. That was just kind of his fatherly persona. He wanted to protect all the kids and his family"), 82.

with Rule 145.05(c). Hard costs and expenses totaled \$86,370.99.⁴² A [REDACTED] equal share of those expenses is \$28,790.33. Subtracting fees and costs from A [REDACTED] gross recovery leaves a net recovery to A [REDACTED] of \$ [REDACTED].⁴³

B. Plan

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴² See Ex. J. The expenses actually totaled slightly more, but these calculations were done prior to incurring those minor additional costs. For ease of all, those minor costs will not be paid by the Trustees.

⁴³ Using the same methodology, Nate Erickson and Horn will each receive a net recovery of [REDACTED].

⁴⁴ See Ex. K; Ex. D at Ex. A; Ex. V; Ex. W; Ex. Y. See also Ex. X; Ex. Q.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

45 [REDACTED]

46 [REDACTED]

[REDACTED]

[REDACTED]⁴⁸

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁵¹

[REDACTED]

[REDACTED]

[REDACTED]

⁴⁸ See Ex. L.

⁴⁹ See Ex. M.

⁵⁰ See *e.g.*, Ex. N.

⁵¹ See Minn. Gen. R. Prac. 145.05(e). See also Ex. V.

⁵² See Ex. U; Ex. W.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵³ See Ex. U; Ex. W.

⁵⁴ See Ex. O; Ex. P; Ex. V.

⁵⁵ See Ex. V.

4. The legal fees and costs are reasonable.

This case started in late 2018 and settled in summer 2022. There were 13 separate defendants. The parties took 24 depositions. The Trustees retained 6 different experts, in toxicology, medical standard of care for patients at risk of alcohol withdrawal, police practices, correctional officer practices, and forensic pathology.⁵⁷ The parties filed lengthy cross-motions for summary judgment.⁵⁸ The Trustees also filed pleadings to compel discovery and a motion for spoliation sanctions.⁵⁹ Ultimately, the Trustees resolved the case on favorable terms without the risk of trial or appeal – they achieved success.

The Trustees' retainer with counsel calls for a contingency payment of 35% of any recovery, plus reimbursement of costs. However, pursuant to Minn. R. Gen. Prac. 145.05, A ■ will only pay a 33.33% fee on his share of the gross recovery.

⁵⁶ See Ex. D; Ex. V. *Compare with* Minn. Gen. R. Prac. 145.06(b), (f).

⁵⁷ See *generally* Ex. J.

⁵⁸ See Doc. Nos. 73, 83, 87, 94, 99, 100, 110, 111, 112.

⁵⁹ See Doc. Nos. 62, 105.

Attorney fees thus total [REDACTED]. Counsel spent \$86,370.99 on out-of-pocket expenses. Reimbursement brings the total distribution to counsel to \$ [REDACTED].

CONCLUSION

For the foregoing reasons, the Trustees respectfully request that the Court grant both motions.

Dated: November 16, 2022

MADIA NEWVILLE LLC

s/J. Ashwin Madia

J. Ashwin Madia, MN No. 0321187

Zane Umsted, MN No. 0398761

1850 IDS Center, 80 S. 8th St.

Minneapolis, MN 55402

Phone: 612.349.2729 Fax: 612.235.3357

Email: jamadia@madianewville.com

Email: zaumsted@madianewville.com

ATTORNEYS FOR PLAINTIFFS

VERIFICATION OF PETITION

I verify that this petition accurately states the distribution of funds sought from the settlement reached in this case.



Nate Erickson, Trustee



Amanda Horn, Trustee



Susan Bristlin, Trustee